

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Market Entry and Regulation)
of International Common)
Carriers with Foreign)
Carriers Affiliations)

RM No. 8355

To: The Commission

REPLY COMMENTS

MCI Telecommunications Corporation ("MCI") hereby replies to the Comments filed in response to the above-captioned Petition for Rulemaking ("Petition") filed by American Telephone and Telegraph Company ("AT&T").

All of the parties -- with the exception of Sprint whose protectionist motives are as transparent as AT&T's -- agree that AT&T's proposed rules would discourage or inhibit not only foreign carriers but also U.S. carriers with even the slightest ownership relationship with foreign carriers, from competing vigorously in the international telecommunications marketplace.¹ The specific intent and undeniable effect of AT&T's proposed rules would be to deny

¹ The following parties filed Comments: Sprint, British Telecommunications plc ("BT"), Cable & Wireless, Inc. ("C&W"), ACC Global Corp. ("ACC"), Telefonica Larga Distancia de Puerto Rico, Inc. ("TLD"), DOMTEL Communications, Inc. ("DOMTEL"), Entel International B.V.I. Corp. ("Entel"), EMI Communications, Inc. and Teleglobe, Inc. The British Embassy filed a letter stating (at 2), inter alia, that "many of AT&T's proposals are regressive."

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the public the benefits that could be realized from alliances between U.S. and foreign carriers.

The parties agree that the Commission's existing "simple resale" and "dominant carrier" policies directly address AT&T's ostensible concerns -- i.e., foreign carriers leveraging their overseas market power to disadvantage U.S. carriers. The parties further agree that AT&T has completely failed to establish that those Commission policies, which discharge the Commission's statutory responsibilities, are ineffective in any respect.²

The Comments also strongly criticize AT&T's proposal that the Commission condition authorizations on the requirement that foreign administrations provide "comparable competitive opportunities" to U.S. carriers by emulating U.S. regulatory policies. As those parties explain, in many cases U.S. regulatory policies may be more restrictive than the policies of foreign administrations and that comparison might induce foreign administrations to impose restrictions on U.S. carriers if they decide to mirror U.S. policies. Moreover, foreign administrations, faced with the threat of the Commission strictly enforcing AT&T's proposed rule against their carriers, might well retaliate against U.S.

² See Regulation of International Accounting Rates, 7 FCC Rcd 559 (1991), recon. 7 FCC Rcd 7927 (1992); Regulation of International Common Carrier Services, 7 FCC Rcd 7331 (1992). C&W at 6-17; BT at 13-14; DOMTEL at 8-10; TLD at 10-12; Entel at 4-9.

carriers through other means.³ In short, rather than assisting U.S. carriers to expand their services overseas, AT&T's proposal would only serve to thwart the efforts of its competitors.

The public is increasingly demanding seamless, sophisticated international communications services, which can be provided only through the close cooperation of U.S. and foreign carriers.⁴ Given AT&T's entrenched position with foreign administrations, competing U.S. carriers need the flexibility to enter into a variety of relationships with foreign carriers. There is absolutely no public interest justification for inhibiting U.S. carriers from entering into suitable relationships. The Commission's policies currently preclude foreign carriers from using their leverage to disadvantage U.S. carriers. There is no legitimate reason for imposing the additional restrictions that AT&T proposes.

In its weak attempt to support AT&T's Petition, Sprint (at 5) claims that the Commission's case-by-case review of foreign carrier applications would be more effective if measured against clearly articulated standards which the Commission should adopt in the rulemaking proceeding AT&T proposes. The short answer to this argument, of course, is that the Commission has clearly articulated policy standards

³ C&W at 3-6; BT at 10-14; British Embassy at 1-4.

⁴ See British Embassy at 3.

governing foreign carrier participation in the U.S. market and the Commission's case-by-case review is measured against precisely those standards. See MCI at 11-22.

Still more disingenuous is Sprint's spurious contention (at 6) that the Commission should initiate and complete the rulemaking proceeding proposed by AT&T before it acts on the "Petition for Declaratory Ruling" filed by MCI and BT on August 23, 1993 concerning their proposed transaction. The MCI/BT Petition and the instant AT&T Petition present entirely independent issues. There is absolutely no justification for suspending action on the narrow issue posed by the MCI/BT Petition, and delaying the public interest benefits that will flow from the MCI/BT alliance, pending the Commission's decision to initiate a rulemaking proceeding, whose scope is completely indeterminate at this juncture.

As MCI explained in its Comments, although AT&T's proposed rules do not merit any consideration, it would be appropriate for the Commission to consider measures for improving the competitive climate for international communications services. At the outset, the Commission should consider strengthening its regulatory policies governing AT&T.⁵ The entrenched relationships that AT&T enjoys with foreign administrations, which it is expanding through its aggressive promotion of infrastructure

⁵ MCI at 8-11.

development projects and equipment sales, is affording AT&T increased leverage in its dealings with those administrations.⁶ To facilitate the efforts of U.S. carriers to penetrate foreign markets, the Commission should investigate whether AT&T is hindering the efforts of its competitors and it should consider appropriate measures to curb that conduct. MCI at 11.

Another constructive measure that the Commission could consider would be establishing benchmarks to encourage foreign administrations to open their markets to U.S. carriers.⁷ Like the Commission's successful accounting rates benchmark approach⁸, MCI's proposal would recognize that foreign administrations cannot be coerced into agreeing to Commission policies but can be persuaded by other means to adopt more enlightened policies.

The benchmarks that MCI proposes would identify measures that foreign administrations could take to open their markets -- e.g., authorizing facilities-based and resale competition in private line and switched services and affording U.S. carriers nondiscriminatory access to foreign local exchange and toll networks. The Commission could evaluate annually the progress of foreign administrations in

⁶ See C&W at 4.

⁷ See MCI at 25-27.

⁸ See Regulation of International Accounting Rates,
7 FCC Rcd 8040 (1992).

meeting its benchmarks and could consider taking more forceful actions if foreign administrations did not make adequate progress. Through these measures the Commission could persuade foreign administrations to open their markets without running the risk of provoking retaliatory actions against U.S. carriers.

CONCLUSION

For the reasons stated in MCI's initial Comments and herein, it would be useful for the Commission to initiate a rulemaking proceeding to consider the measures proposed by MCI, but the Commission should give no consideration to the rules proposed by AT&T.

Respectfully submitted,

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